

1 KAMALA D. HARRIS
Attorney General of California
2 ALFREDO TERRAZAS
Senior Assistant Attorney General
3 ARTHUR D. TAGGART
Supervising Deputy Attorney General
4 State Bar No. 083047
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 324-5339
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2012-267

13 NANCY LATHAM DEKLYN
238 Tom Circle
Chico, CA 95973

ACCUSATION

14 Registered Nurse License No. 738504

15 Respondent.

16
17 Louise R. Bailey, M.Ed., RN ("Complainant") alleges:

18 PARTIES

19 1. Complainant brings this Accusation solely in her official capacity as the Executive
20 Officer of the Board of Registered Nursing ("Board"), Department of Consumer Affairs.

21 2. On or about October 16, 2008, the Board issued Registered Nurse License
22 Number 738504 to Nancy Latham Deklyn ("Respondent"). The license was in full force and
23 effect at all times relevant to the charges brought herein and will expire on February 29, 2012,
24 unless renewed.

25 ///

26 ///

27 ///

28 ///

JURISDICTION

3. Business and Professions Code ("Code") section 2750 provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

4. Code section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under Code section 2811(b), the Board may renew an expired license at any time within eight years after the expiration.

STATUTORY PROVISIONS

5. Code section 2761 states, in pertinent part:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for the following:

(a) Unprofessional conduct.

6. Code section 2762 states, in pertinent part:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do the following:

(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

COST RECOVERY

7. Code section 125.3 provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

FIRST CAUSE FOR DISCIPLINE

(Possessed and Self-Administered a Controlled Substance)

8. Respondent is subject to discipline under Code section 2761(a), on the grounds of unprofessional conduct as defined in Code section 2762(a), in that in or about March 2009, while employed as a registered nurse at North Valley Developmental Services, Inc., located in Chico, California, Respondent did the following:

a. Respondent possessed Marijuana, a controlled substance, in violation of Code section 4060, in that she did not have a prescription for that controlled substance.

b. Respondent self-administered Marijuana, a controlled substance, without direction to do so from a licensed physician and surgeon, dentist or podiatrist.

SECOND CAUSE FOR DISCIPLINE

(Use of Controlled Substances)

9. Respondent is subject to discipline under Code sections 2761(a) on the grounds of unprofessional conduct as defined in Code section 2762(b), in that on or about June 30, 2009, and July 1, 2009, Respondent used controlled substances to an extent or in a manner dangerous or injurious to herself, other persons, or the public or to the extent that such use impaired her ability to conduct with safety to the public the practice authorized by her license, as follows:

a. While on duty as a registered nurse at North Valley Developmental Services, Inc., located in Chico, California, Respondent was observed to be confused, unable to track conversations, slurred speech, fidgety, agitated, irrational, dozing off, and her verbiage was incoherent. On or about July 1, 2009, based upon her behavior, her employer required Respondent to submit to a drug screening test. The results were positive for Benzodiazepines (Desmethyldaizepam, Oxazepam, Temazepam, and Lorazepam).

b. In or about January 2010, Respondent relapsed and abused alcohol and Vicodin.

DISCIPLINARY CONSIDERATIONS

10. Effective September 20, 1987, in a disciplinary action before the Colorado State Board of Nursing, entitled, *"In the Matter of Disciplinary Proceedings Regarding the License to Practice Professional Nursing of Nancy Latham Deklyn, R.N., License No. 79423, Proceedings*

No. RG-NU-DAHDP," Respondent's Colorado Registered Nurse License Number 39423 was placed on probation for a period of two (2) years. The Findings of Fact and Conclusion of Law was based on the following: 1) Respondent's history of substance abuse dating back to 1979, including hallucinogens, marijuana, and cocaine; 2) Between April and July 1986, Respondent used IV Demerol; and 3) On or about March 7, 1987, while employed at Boulder Community Hospital, Respondent diverted Demerol for her own personal use.


PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 738504, issued to Nancy Latham Deklyn;
2. Ordering Nancy Latham Deklyn to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Code section 125.3; and
3. Taking such other and further action as deemed necessary and proper.

DATED:

October 28, 2011


for LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

SA2011101533
10744308.doc